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SUBJECT: SWAZILAND'S DEPUTY PRIME MINISTER TO SUSPEND INTER-COUNTRY ADOPTIONS

¶1. (SBU) On February 3, Ambassador Irving and ConOff Murphy met with Deputy Prime Minister (DPM) Themba Masuku, and Principal Secretary (PS) Khangeziwe Mabuza to discuss the Swaziland international adoption program and, specifically, the prolonged processing of three U.S. cases. DPM Masuku expressed regret with the current delays and promised to prioritize the cases. Nevertheless, he said that current miscommunications on procedures within his department require him to suspend further adoptions until he can implement improvements. END SUMMARY

BACKGROUND

¶2. (U) The number of adoptions by U.S. citizens in Swaziland have increased from one in 2006 to nine in 2009 and to 10 already in 2010. Swaziland is not a party to the Hague Convention on Protection of Children and Co-operation in Respect to Inter-country Adoption, but the Department of Social Welfare (DSW), under the DPM's Office, and the Deputy Prime Minister himself have expressed a desire to become a signatory to the Convention before year's end. Masuku indicated that Swaziland's Department of Foreign Affairs and International Cooperation has the lead on pushing the ratification vote through parliament has not done so to date. Inter-country adoption in Swaziland is governed by the Adoption of Children Act of 1952. Under this law, an adopted child cannot be removed from the Kingdom of Swaziland within one year of adoption unless permission has been obtained, in writing, from the DPM. This permission is typically granted for U.S. families adopting from the U.S. Approximately 10 percent of the Swazi population consists of orphans, and orphan care and proper adoption procedures are of utmost stated importance to the Swazi government. To underscore its sincerity, the government moved Department of Social Welfare moved from the Ministry of Health to the higher profile Office of the Deputy Prime Minister in 2008.

¶3. (U) Until April 2009, all aspects of Swazi adoption cases were processed in Johannesburg. Prospective adoptive parents (PAPs) filed their petitions with Department of Homeland Security/Citizenship and Immigration Services (DHS/CIS) and then, ultimately, applied for the child's immigration visa with the Consulate. In an effort to limit the number of trips the families had to make to Johannesburg and reduce the stress inherent in the process, DHS determined that Mbabane could process clearly-approvable adoption (and other immediate relative) petitions at post. The immigrant visas are still adjudicated in Johannesburg, as before.

¶4. (U) In August 2008, the GKOS signed a Memorandum of Understanding for international adoption with a U.S. adoption agency, Hawaii International Child (HIC), and a Canadian adoption agency, Sunrise. The first adoptions were processed through DHS/CIS in Johannesburg with no Embassy Mbabane involvement. In the subsequent months, HIC continued to submit prospective family adoption dossiers to DSW which, in turn, continued to pair orphans

with the PAPs. Due to lack of clear information from DSW and stressful and challenging experiences by HIC clients in Swaziland, the HIC Executive Director made 10 visits to Swaziland in the two and a half years the program has been in operation. Typically, the director makes only one visit per year to monitor international adoption programs.

PROCESS FOR A SWAZI INTERNATIONAL ADOPTION

15. (U) The process of inter-country adoption in Swaziland is appropriately straight-forward, and the procedures to establish orphan status are aptly rigorous. Swazi children who are in government-approved care homes or who come to the attention of the Swazi government due to lack of parental or guardian care may be considered for inter-country adoption. Once a U.S. family has been pre-approved for international adoption and an eligible and confirmed orphan has been identified, DSW invites the PAPs to Swaziland to bond with the child and receive final approvals. Once the adoption is declared full and final by the Swaziland High Court, the family applies for new birth certificates and international passports, obtains final adoption approval from the Embassy, and applies for immigrant visas in Johannesburg.

16. (U) When the inter-country adoption program began in Swaziland, PAPs received the court adoption decree and final U.S. government approval within two weeks of arriving in country. For reasons inexplicable, the process has stretched to more than 12 weeks. There are currently two adoptive families who have been in Swaziland since mid-November, still waiting for final court approval. A third PAP arrived in mid-January whose case has not received any official attention. It is on their behalf that the Ambassador and Consular

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Chief met with the DPM and PS.

THE STALLED CASES

17. (U) Melanie Fullingim arrived in Swaziland per DSW's invitation on November 19, 2009 to adopt three older orphaned siblings who had been living in the Manzini Halfway House for the past two years. Mrs. Fullingim, who after ten weeks is still in Swaziland, has received almost no updates on her case throughout her stay, even with repeated attempts from the ConOff to obtain information from DSW. The children were abandoned by their father and their mother is unknown, so there is no question regarding their orphan status. The case has been languishing on the desk of the Director of Social Welfare since January 18 for no known reason.

18. (U) John Messerly arrived in Swaziland per DSW's invitation on November 23, 2009 to adopt two orphaned children who had been living at the ABC Ministries for over a year. Mr. Messerly has experienced similar challenges to Mrs. Fullingim, though his case has progressed slightly further. The court case for the daughter was completed a week ago, but the son's case was declined pending written consent from either birth parent. Before inviting Mr. Messerly to Swaziland, DSW conducted an exhaustive search, including the required newspaper and radio ads, for any relative to claim the children, and no one came forward. It is unclear why the court is again questioning the orphan status of the child - particularly considering the child has bonded with and been in the custody of the Messerly family for over two months. According to a very recent communication with Mr. Messerly, maternal grandparents have come forward today, after 3.5 years, and may oppose the adoption at this late stage.

19. (U) Dr. Nilou Ataie arrived in Swaziland per DSW's invitation on January 16, 2010 to adopt an infant child whose birth mother specifically requested that her yet-unborn child be placed immediately with a PAP rather than be put in an institution. Although DSW approved this arrangement in advance of Dr. Ataie's arrival in Swaziland, the department reneged on the agreement and placed the newborn in Manzini Halfway House, which is not equipped to care for infants. Dr. Ataie has received no word as to when she will be granted custody of the child.

DECISION OF THE DEPUTY PRIME MINISTER

¶10. (U) In the meeting at the office of the Deputy Prime Minister February 3, 2010, the Ambassador and ConOff detailed the cases and expressed their concern for the hardships being endured by the U.S. families to the DPM and PS, who conveyed genuine regret and embarrassment that their process had kept the PAPs in the country for so long. DPM Masuku indicated that his subordinates did not properly inform him of the cases until several weeks into the process. (Note: This has not been an issue in the previous adoptions. He is typically informed of the adoptions when he signs the permission for the child to leave Swaziland. End Note).

¶11. (U) Masuku said he needed to personally and carefully review the process and, for that reason, temporarily would suspend further inter-country adoptions once he secures cabinet approval, possibly as early as February 4. However, he indicated that the pending American cases would not be suspended, but rather would be handled separately and on a priority basis. The DPM also expressed an interest in meeting with the PAPs face-to-face to stress that they must allow the children an on-going relationship with Swaziland so they do not forget where they come from.

¶12. (SBU) DPM Masuku affirmed that he feels passionate about children, and frankly prefers local foster care to foreigners adopting Swazi children. He considers the adoption system in Swaziland as "spun out of control," and he needs to rein it in before any more adoptions are approved. He expressed concern that the press might misconstrue his actions in moving expeditiously on cases as colluding in trafficking in persons. Finally, he said he learned from police intelligence that some unspecified non-governmental organization was bringing money into the country in connection with adopting Swazi children. He did not know their motive, but suspected it was something sinister. (Comment: To our knowledge, this claim is unsubstantiated. Certainly, the PAPs have had to bring in substantial funding to support themselves and their families during the long waiting periods. End Comment).

¶13. (SBU) The DPM promised that the PS would contact the ConOff within the next couple of days with updates on the cases. He further guaranteed to handle them expeditiously, but did not say when the cases would actually move forward.

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COMMENT

¶14. (SBU) Post has worked vigorously to develop trusting relationships within the DPM's office, and this has expedited the successful completion of valid adoptions within the last year. We speculate that the convergence of several factors has led to the suspension of adoptions -- the much-publicized concern about Haitian children being "sold," an increase in requests for adoption of Swazi children by foreigners, and Swaziland's passage of rigorous Anti-Trafficking legislation, which many people do not understand and equate with inter-country adoption. End Comment.

IRVING